

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 01-7456**

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DAVID L. CARTER,

versus

Petitioner - Appellant,

UNITED STATES OF AMERICA; KATHLENE HAWK  
SAYLER; UNITED STATES BUREAU OF PRISONS; JANET  
RENO, Attorney General of the United States;  
UNITED STATES DEPARTMENT OF JUSTICE; UNITED  
STATES BUREAU OF CUSTOMS; FEDERAL CORRECTIONAL  
INSTITUTE, ESTILL; JORDAN FLOYD; REPLACEMENT  
WARDEN,

Respondents - Appellees.

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Appeal from the United States District Court for the District of  
South Carolina, at Charleston. David C. Norton, District Judge.  
(CA-99-3444-2-18A)

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Submitted: October 4, 2001

Decided: October 12, 2001

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Before NIEMEYER, LUTTIG, and MICHAEL, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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David L. Carter, Appellant Pro Se. Barbara Murcier Bowens, OFFICE  
OF THE UNITED STATES ATTORNEY, Columbia, South Carolina, for  
Appellees.

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Unpublished opinions are not binding precedent in this circuit.  
See Local Rule 36(c).

PER CURIAM:

David L. Carter seeks to appeal the district court's judgment adopting the magistrate judge's report and recommendation and dismissing the case for failing to prosecute. We dismiss the appeal for lack of jurisdiction because Carter's notice of appeal was not timely filed.

Parties are accorded sixty days after entry of the district court's final judgment or order to note an appeal, see Fed. R. App. P. 4(a)(1), unless the district court extends the appeal period under Fed. R. App. P. 4(a)(5) or reopens the appeal period under Fed. R. App. P. 4(a)(6). This appeal period is "mandatory and jurisdictional." Browder v. Director, Dep't of Corrections, 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)).

The district court's order was entered on the docket on April 27, 2001. Appellant's notice of appeal was filed on July 12, 2001.\* Because Appellant failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the mate-

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\* Under Houston v. Lack, 487 U.S. 266 (1988), the notice is considered filed as of the date Carter delivered it to prison officials for forwarding to the court. The only date that appears on the notice is the July 12 postmark.

rials before the court and argument would not aid the decisional process.

DISMISSED